

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 691

Introduced by Assembly Member Daucher

February 19, 2003

~~An act to add Section 1271.2 to the Health and Safety Code, relating to care facilities. An act to add Chapter 1.6 (commencing with Section 120392) to Part 2 of Division 105 of the Health and Safety Code, relating to immunizations.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 691, as amended, Daucher. ~~Skilled nursing~~ Nursing facilities: ~~standing orders~~; vaccines.

Under existing law, the State Department of Health Services is responsible for the licensure and regulation of health facilities, including skilled nursing facilities *and intermediate care facilities*, as defined. *A violation of the law relating to these facilities is a misdemeanor.*

~~This bill would require a licensed skilled nursing facility to offer patients the option of requesting the issuance of standing orders, as defined, for influenza or pneumococcal vaccines, or both.~~

Under existing law, the department also has specified responsibilities relating to the prevention and control of communicable diseases by various means, including requiring specified immunization by vaccine for various populations.

This bill would require a skilled nursing facility, intermediate care facility, or a nursing facility, as defined, to offer immunization by vaccine for influenza and pneumococcal disease to its residents, aged

65 years or older, between October 1 and April 1 of each year. The bill would require the facility to be reimbursed the standard Medi-Cal rate for vaccines provided to Medi-Cal recipients. The bill would require the facility to obtain informed consent for the immunization services, from the resident or the person legally authorized to make medical decisions on the resident's behalf.

This bill would specify circumstances under which the immunizations may not be administered to a resident, and circumstances under which the facility shall not be required to provide the immunization services required by the bill. The bill would provide that any good faith act or omission that results in the failure of a care facility to provide an immunization pursuant to the bill shall not be the basis for issuing a deficiency or citation against the facility's license.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1271.2 is added to the Health and Safety~~
2 ~~Code, to read:~~

3 ~~1271.2. (a) A health facility licensed as a skilled nursing~~
4 ~~facility, as defined in subdivision (c) of Section 1250, shall offer~~
5 ~~patients the option of requesting the issuance of standing orders for~~
6 ~~influenza or pneumococcal vaccines, or both.~~

7 ~~(b) For purposes of this section, "standing orders" means~~
8 ~~written orders that are used or intended to be used in the absence~~
9 ~~of a prescriber's specific orders for a specific patient.~~

10 ~~SECTION 1. Chapter 1.6 (commencing with Section 120392)~~
11 ~~is added to Part 2 of Division 105 of the Health and Safety Code,~~
12 ~~to read:~~

13
14 ~~CHAPTER 1.6. INFLUENZA AND PNEUMOCOCCAL IMMUNIZATIONS~~
15

16 ~~120392. For purposes of this chapter, the following~~
17 ~~definitions apply:~~

18 ~~(a) "Health care facility" means a skilled nursing facility as~~
19 ~~defined in subdivision (c) of Section 1250, an intermediate care~~
20 ~~facility as defined in subdivision (d) of Section 1250, or a nursing~~
21 ~~facility as defined in subdivision (k) of Section 1250. This chapter~~
22 ~~shall not apply to hospital-based skilled nursing facilities.~~

1 (b) “Medically contraindicated” means that the
2 administration of the influenza or pneumococcal vaccines to a
3 person, because of a medical condition of that person, would be
4 detrimental to the person’s health if the person receives either or
5 both of the vaccines.

6 120392.2. (a) Each year, commencing October 1 to the
7 following April 1, inclusive, every health care facility shall offer
8 immunizations for influenza and pneumococcal disease to
9 residents, aged 65 years or older, receiving services at the facility,
10 based upon the recommendations of the Advisory Committee on
11 Immunization Practices (ACIP) of the Centers for Disease Control
12 and Prevention.

13 (b) For Medi-Cal recipients, the facility shall be reimbursed
14 the standard Medi-Cal rate for the immunizations provided.

15 120392.4. (a) A resident who receives services at a health
16 care facility during the period of October 1 to April 1 shall have
17 his or her status for influenza and pneumococcal immunization
18 determined by his or her physician, and, if appropriate, the facility
19 shall offer to make the immunizations available.

20 (b) A health care facility shall obtain from a resident who
21 requests immunization services, or from the person legally
22 authorized to make medical decisions on the resident’s behalf,
23 informed consent for the resident to be immunized by vaccination
24 against influenza and pneumococcal disease to be conducted by
25 the facility while the resident is receiving services at the facility.

26 (c) A health care facility shall comply with Section 1418.8 with
27 respect to a resident who lacks the capacity to make health care
28 decisions, and there is no person with legal authority to make these
29 decisions on behalf of the resident.

30 (d) The health care facility shall document in a resident’s
31 medical record whether the resident has received the influenza
32 vaccine or the pneumococcal vaccine.

33 120392.6. No person may receive either an influenza vaccine
34 or pneumococcal vaccine pursuant to this chapter if any of the
35 following conditions exists:

36 (a) The vaccine is medically contraindicated, as described in
37 the product labeling approved by the federal Food and Drug
38 Administration or by the recommendations established by the
39 Advisory Committee on Immunization Practice (ACIP) of the

1 *Centers for Disease Control and Prevention that are in effect at the*
2 *time of vaccination.*

3 *(b) Receipt of the vaccine is against the person's religious*
4 *beliefs.*

5 *(c) Receipt of the vaccine is against the person's wishes, or is*
6 *against the wishes of the person legally authorized to make*
7 *medical decisions on the persons' behalf.*

8 *120392.8. (a) Notwithstanding any other provision of this*
9 *chapter, a health care facility shall not be required to provide*
10 *immunizations for influenza and pneumococcal disease under*
11 *either of the following circumstances:*

12 *(1) The facility is unable to obtain the vaccine due to a shortage*
13 *of the supply of vaccine.*

14 *(2) The resident refuses to pay for the vaccine and there is no*
15 *other funding source available to pay for the cost of the vaccine.*

16 *(b) Any good faith act or omission that results in the failure of*
17 *a health care facility to provide an immunization pursuant to this*
18 *chapter shall not be the basis for issuing a deficiency or citation*
19 *against the facility's license.*

